



Certificate of Foreign Status for Federal Tax Withholding (LBNL W-8BEN)

If you are a NRA (nonresident alien) and will be performing services for LBNL in the US/CA, you will be required to complete a Glacier record. Please ensure an email address is provided on this W-8BEN form.

This information is required in accordance with the provisions of the Internal Revenue Code applicable to foreign individuals. LBNL will use this information to determine the appropriate Federal and State tax withholding applicable to any payment(s) you receive. You must complete this form prior to receiving a payment from LBNL. In addition, if there is a change in your immigration status, you must complete a new form. The information requested below is confidential and will be used only to determine your correct tax withholding status. Please read the Instructions before completing this form.

If you are an employee and have a Form I-20, DS2019, or Notice of Action, please attach it. If you are an independent contractor, attach a copy of your Form I-94. If you are receiving payments from a source that did not sponsor your J visa, you must attach a copy of your approval notice from the sponsor.

Do not complete this form if you are a U.S. CITIZEN or LAWFUL PERMANENT RESIDENT of the United States. If you are an employee, your Employment Eligibility Verification, Form I-9, must indicate that you are a U.S. citizen or lawful permanent resident.

SECTION A. IDENTIFICATION OF PAYEE		
1. Name (Last, First, Middle)	2. Employee ID. Number	3. Taxpayer ID. Number <input type="checkbox"/> SSN <input type="checkbox"/> ITIN
4. Division	5. Email address	
6. LBNL Status. Check all that apply <input type="checkbox"/> Staff, Post Doc or Student Employee <input type="checkbox"/> Fellowship Recipient <input type="checkbox"/> Independent Contractor <input type="checkbox"/> Working outside the U.S. (If you check this box, proceed to Section H)		
7. Street Address In U.S.	8. Permanent Residence Address	
Street Address Line 2	Street Address Line 2	
City, State, Zip Code	City, Province, Country, Postal Code	
SECTION B. HEALTH INSURANCE INFORMATION		
1. Name Of U.S. Health Insurance Carrier (See Instructions)		
SECTION C. IMMIGRATION STATUS INFORMATION		
1. Visa Classification Do you have an F or J visa classification? <input type="checkbox"/> Yes. Complete C 2 and C 3 and proceed to section D. Step 1. <input type="checkbox"/> No. Proceed to section D. Step 1.	2. Enter Original Date You Entered The U.S. (See Instructions)	3. Enter Expiration Date of Current Visa (See Instructions)
SECTION D. SUBSTANTIAL PRESENCE TEST		
The substantial presence test is used to determine whether a non-U.S. citizen should be classified for tax purposes as a resident alien or as a nonresident alien. The information below will assist you in determining your U.S. tax residency status.		
Step 1 Check the statement that describes your status and follow the instructions after the statement.	<input type="checkbox"/> I will be in the U.S. less than 31 days in the entire calendar year for which residency is being determined. You are a nonresident alien for tax purposes. Do not complete Step 2, proceed to section G.	
	<input type="checkbox"/> I am a STUDENT on an F-1, J-1, M-1, or Q-1 visa, and including the calendar year in which this form is being prepared, throughout my lifetime I have been physically present in the U.S. as an F-1, J-1, M-1, or Q-1 visa holder (whether as a student, teacher, researcher, or trainee) for five or fewer calendar years . Physical presence in the U.S. in such visa status for any part of a calendar year constitutes a full calendar year of presence. List all years that you were present in the U.S. for all or any part of the calendar year in F-1, J-1, M-1, or Q-1 visa status whether as a student, teacher, researcher, or trainee status. Years present: _____	
If you meet these conditions, you are a nonresident alien for tax purposes for the calendar year in which this form is completed. Do not complete Step 2, proceed to section G.		

Signature _____		Date _____	
BUSINESS STATUS (Check all that apply)			
<input type="checkbox"/>	Disadvantage Business	<input type="checkbox"/>	Veteran-Owned Small Business
<input type="checkbox"/>	Women-owned Business	<input type="checkbox"/>	Service-Disabled Veteran-Owned Small Business
<input type="checkbox"/>	HUB Zone Small Business	<input type="checkbox"/>	California Disabled Veteran
<input type="checkbox"/>	8a Small Business		

Instructions for Completing the Certificate of Foreign Status for Federal Tax Withholding (LBNL W-8BEN)

You have been asked to complete the Certificate of Foreign Status for Federal Tax Withholding form because you are a non-U.S. citizen receiving payments from LBNL. Under Federal tax laws, all non-U.S. citizens are classified as either resident aliens or nonresident aliens. LBNL must establish your proper classification with respect to residency for Federal tax purposes in order to determine the proper tax withholding and file the appropriate reports with the Internal Revenue Service. By completing the information on the form, LBNL can determine whether you should be classified for Federal tax purposes as a resident alien or a nonresident alien. The Instructions below will assist you in completing this form. Please note that you must complete this form at the time of hire, rehire, or if there are any changes in your visa status.

SECTION A. IDENTIFICATION OF PAYEE

1. **NAME** – Enter your full name – Last, First, Middle.
2. **EMPLOYEE ID. NUMBER** – University employees enter your 9-digit University employee identification number. If you are a nonemployee, leave this field blank.
3. **TAXPAYER ID. NUMBER** – Check the box that applies to your taxpayer ID. Number: SSN (Social Security Number), ITIN (Individual Taxpayer Identification Number), or EIN (Employer Identification Number). (*If you are a Canadian, do not enter the social security number issued by the Canadian government*). An individual otherwise ineligible to obtain a SSN may obtain an ITIN. You may obtain an ITIN, if you are eligible, by filing Form W-7, Application for Individual Taxpayer Identification Number, along with necessary documentation with the IRS Service Center in Austin, TX. You may obtain the Form W-7 from the IRS web site, www.irs.gov.
4. **DEPARTMENT** – Enter the name of your division compensating you or providing the fellowship grant to you.
5. **EMAIL ADDRESS** – Enter your email address.
6. **LBNL STATUS** – Check all that apply.
7. **STREET ADDRESS IN U.S.** – Enter your current mailing address. Utilize Employee Self-Service to change your address.
8. **PERMANENT RESIDENCE ADDRESS** – Enter your permanent address in the country where you claim to be a resident for purposes of that country's income tax. (Do not use a LBNL address, P.O. Box, or in-care of address). If your permanent address is the same as # 7, you may leave # 8 blank.

SECTION B. HEALTH INSURANCE INFORMATION

1. **NAME OF U.S. HEALTH INSURANCE CARRIER** – Enter the name of your health insurance provider in the U.S.

SECTION C. IMMIGRATION INFORMATION

1. **VISA Classification** – Check the box that applies to your classification. For F or J visa classifications, this information can be found on your Form I-20, DS-2019, Notice of Action, or I-94. (Please note that if your visa classification is H, O, or TN, you must be paid by the employer that filed and received approval of your petition).
2. **ORIGINAL DATE YOU ENTERED U.S.** – Enter the date on which you first entered the U.S. F and J visa holders please note that you may enter and leave the U.S. many times during the period of your study, teaching, or research in the U.S. (i.e., vacations, holidays, or summer breaks) but the original date of entry into the U.S. on your current visa is the first date that you arrived in the U.S. to begin your study, teaching, research, etc., not the last date that you entered the U.S.

3. **EXPIRATION DATE OF CURRENT VISA** – Enter the expiration date of your current visa (F visa holders this information can be found in Part 5 of the I-20 or the EAD card if on practical training. J visa holders this information can be found on the DS-2019 form in Box 3.). All other visa statuses check your Notice of Action, or I-94.

SECTION D. SUBSTANTIAL PRESENCE TEST

Step 1: Read the statements and check the box that corresponds to your status. Proceed to the step indicated by your choice.

Step 2: Complete each row and column in this chart. In the first column, enter the applicable calendar year. In the second column, enter the periods when you were or expect to be physically present in the U.S. In the third column, enter only "countable" days of physical presence in the U.S. In this connection, you should not count:

- Days spent solely commuting to work in the U.S. from a residence in Canada or Mexico.
- Days spent in the U.S. for less than 24 hours while in transit between two places, which are located outside the U.S.
- Days you were unable to leave the U.S. because of a medical condition that developed while in the U.S.
- Days in which you were exempt from having to count days as a student on an F-1, J-1, M-1, or Q-1 visa or as a teacher, researcher or trainee on a J-1 or Q-1 visa.

For each year, multiply the number of **TOTAL COUNTABLE DAYS OF U.S. PRESENCE** by the **CALCULATION FACTOR** indicated to

arrive at the **DAYS TO COUNT** in the far right column. Add the number of days in the right hand column to calculate the Total.

SECTION E. SUMMARY OF FOREIGN STATUS FOR FEDERAL TAX WITHHOLDING

Check the appropriate box based on the Total Days to Count reported in Step 2 above.

SECTION F. CLOSER CONNECTION TEST

You may be eligible to claim the closer connection exception with the IRS if you can answer yes to the following three questions:

- Will you be in the U.S. for fewer than 183 days in the current year?
- Do you pay income taxes in your country of residency?
- Do you have a closer connection with the foreign country in which a tax home is maintained than to the U.S?

These factors are used to determine if you meet the requisite closer connection requirements. You must file Form 8840 with the IRS to

establish your claim that you are a nonresident alien. Additional information regarding the closer connection exception is set forth in the IRS Form 8840, Closer Connection Exception Statement for Aliens and Publication 519, U.S. Tax Guide for Aliens. You may obtain this form and publication from the IRS web site at the following address: www.irs.gov. You must provide a copy of the IRS closer connection determination letter upon receipt to the Payroll Department.

SECTION G. CLAIM OF TAX TREATY BENEFITS

You may be eligible for exemption from Federal income tax withholding under a tax treaty between the U.S. and your country of residence. If you wish to claim the benefits of a tax treaty you must: 1) be receiving a type of income (e.g., wages, fellowship award, royalty, etc.) that is exempt under a specific provision of the tax treaty; and 2) meet all treaty eligibility requirements.

In addition to completing this form, nonresident aliens receiving a fellowship or royalty payment who want to claim the tax treaty exemption must complete the information requested in Section G to claim the exemption. Nonresident alien employees (including students, teachers, and researchers) claiming tax exemption for wages are required to submit to LBNL a Form 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Service of a Nonresident Alien Individual, and must provide an additional tax treaty statement (as required under Revenue Procedures 87-8, 87-9, 93-22, and 93A).

Nonresident alien independent contractors must also submit a Form 8233 to claim tax treaty benefits. Resident aliens who are claiming a tax treaty exemption of any kind must complete a Form W-9, Request for Taxpayer Identification Number and Certification.

Tax treaty forms may be available on your Payroll Department.

SECTION H. WORKING OUTSIDE THE UNITED STATES

Compensation paid to a nonresident alien for services performed entirely outside of the U.S. is considered to be foreign source income; therefore, no U.S. tax withholding is required. If the services are performed both within and without the U.S., the total amount of the compensation must be prorated based on the total time associated with the performance of service within and without the U.S. This exclusion is applicable to both employee wages and independent contractor compensation. If you meet the above criteria, you must complete the information requested in Section H to claim this exclusion. You may obtain additional information from the IRS web site at the following address: www.irs.gov.

SECTION I. CERTIFICATION

Sign and date the form. Return the completed form to the office that issued it to you.

ADDITIONAL INFORMATION

CALIFORNIA PERSONAL INCOME TAX - Regardless of your Federal income tax status, you are subject to California Personal Income Tax in the same manner as U.S. citizens.

CHANGE IN CIRCUMSTANCES

If a change in circumstances makes the information on this form incorrect, you are required to immediately complete a new form. Failure to do so may result in incorrect Federal tax withholding and reporting. Please note that nonresident alien employees should complete the UC W-4NR/DE 4 to make a change in their withholding status. If a change in circumstances makes you a resident alien, you should complete the Form UC W-4/DE 4. If you become a U.S. citizen or a lawful permanent resident after submission of this form, notify your department.

EXPIRATION OF FORM

This form will remain in effect for a period of three years from the date that it is signed.

Frequently Asked Questions

1. What is the difference between a resident alien and a nonresident alien for tax purposes?

The Internal Revenue Service (IRS) classifies all foreign nationals as either resident aliens or nonresident aliens. Resident aliens are, for the most part, taxed in the same manner as U.S. citizens. The Internal Revenue Code (IRC), however, imposes an entirely different tax system on nonresident aliens. There are many differences between the two tax regimes, but perhaps the most significant is that resident aliens, like U.S. citizens, are taxed on their worldwide income, while nonresident aliens are taxed only on their U.S.-sourced income. In addition, different income tax withholding and reporting requirements are imposed on payments made to nonresident aliens.

2. What are the "green card" and "substantial presence test"?

These are the two tests that the IRS uses to classify a foreign national as either a resident alien or a nonresident alien.

Generally, if either test is met, the person is a resident alien.

Under the green card test, a foreign national is classified as a resident alien on the date that the person is officially granted green card status. Resident alien status remains in effect until such time as the green card is rescinded or abandoned.

The substantial presence test measures the extent of a foreign national's physical presence in the U.S. to determine whether the person has been present in the U.S. for a sufficient amount of time to be classified as a resident alien. The substantial presence test (which is used only for tax purposes, not for immigration classification purposes) is met if the foreign national is physically present in the U.S. for a total of at least 183 days, taking into account all days of physical presence in the current year and in the two immediately preceding years. In addition, the person must be physically present for at least 31 days during the calendar year being tested. In making the 183-day calculation, the individual must count:

- The total number of days of physical presence in the U.S. during the current year;
- 1/3 of the number of days of physical presence in the U.S. during the 1st year preceding the current calendar year; and
- 1/6 of the number of days of physical presence in the U.S. during the 2nd year preceding the current calendar year.

This calculation is set forth in Section D, Step 2 of the Certificate of Foreign Status for Federal Tax Withholding (UC W-8BEN) form. For a non-exempt foreign national, the substantial presence test must be applied each calendar year to determine whether the foreign national will be treated as a resident or a nonresident alien for the year. Thus, a person's classification may change from year to year.

3. Who is an "exempt individual" for tax purposes?

The term "exempt individual" does not refer to exemption from U.S. income tax; rather, it describes certain foreign national students, teachers, researchers, or trainees who are exempt from having to count days of physical presence in the U.S. toward the substantial presence test. The result of being an exempt individual is that the period of time that the person is classified as a nonresident alien is extended. In order to qualify as an exempt individual, the person must be temporarily present in the U.S. and be in substantial compliance with the conditions of his or her visa. In addition, the individual must fit one of the following profiles:

- Present in the U.S. as a teacher/researcher/trainee or postdoctoral fellow on a J or Q visa, except that such person will not be an exempt individual for the current year if he or she had been an exempt individual for any part of two or more of the previous six calendar years. In making the two-out-of-six year determination, the person must take into account any part of the year in which he or she was (1) a teacher, researcher, trainee, or postdoctoral fellow under a J-1 or Q-1 visa, and (2) a student under an F-1, J-1, M-1, or Q-1 visa.
- Present in the U.S. as a student on an F-1, J-1, M-1, or Q-1 visa, except that such person will not be an exempt individual for the current year if he or she had been an exempt individual for any part of five calendar years throughout the person's